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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/610,128	07/05/2000	Bruce Kerievsky	1467.006	4622

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Peter L Berger  
Levisohn Lerner Berger & Langsam  
757 Third Avenue  
Suite 2400  
New York, NY 10017

EXAMINER

OUELLETTE, JONATHAN P

ART UNIT

PAPER NUMBER

3629

DATE MAILED: 01/07/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 09/610,128	Applicant(s) KERIEVSKY, BRUCE	
	Examiner Jonathan Ouellette	Art Unit 3629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 July 2000.
- 2a) ☐ This action is **FINAL**.      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 7/5/2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 101*

#### *Double Patenting*

1. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).
2. A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.
3. Claims 1-36 are rejected under 35 U.S.C. 101 as claiming the same invention as that of amended claims 1-13 of prior U.S. Patent No. 09/500,599. This is a double patenting rejection.

### *Claim Rejections - 35 USC § 103*

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
  - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carmean (US 4,568,810) in view of DelGiorno (US 5,899,502), in view of Neuhaus (US 5,832,446), and further in view of Kolawa et al. (US 6,236,974).
6. As per Claims 1, 14, and 25, Carmean discloses an apparatus for facilitating the food preparation process, whereby a user can interact with said apparatus to receive instruction for preparation of a variety of dishes, comprising: (a) memory means and (b) selection means (Abstract).
7. Carmean fails to disclose said memory means storing a plurality of cooking recipes in a hierarchically structured database.
8. Neuhaus teaches said memory means storing a plurality of data in a hierarchically structured database (Abstract, C9 L1-45)
9. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included a memory means storing a plurality of data in a hierarchically structured database, as disclosed by Neuhaus, in the system disclosed by Carmean, for the advantage of providing an apparatus for facilitating the food preparation process with the ability to better organize information for the cook using typical computer storage means.
10. Carmean and Neuhaus disclose means allowing said user to add recipes to said hierarchically structured database (Neuhaus: Abstract, C9 L1-45).
11. Both Carmean and Neuhaus fail to disclose said selection means allowing said user to select at least one recipe from said plurality of recipes stored in said memory means;

12. DelGiorno teaches said selection means allowing said user to select at least one recipe from said plurality of recipes stored in said memory means; (c) recipe loading means (Abstract, C4 L 1-65).
13. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included a selection means allowing said user to select at least one recipe from said plurality of recipes stored in said memory means; and a recipe loading means, as disclosed by DelGiorno in the system disclosed by Neuhaus, in the system disclosed by Carmean, for the advantage of providing an apparatus for facilitating the food preparation process with the ability to store, retrieve, and display recipe information for the cook.
14. Carmean, Neuhaus, and DelGiorno fail to disclose (d) communication means, said communication means communicating cooking instruction from said at least one selected recipe to said user, wherein said communication means further comprise text-to-speech and voice recognition means configured to fulfill and recognize spoken commands given by said user to said apparatus.
15. Kolawa teaches (d) communication means, said communication means communicating cooking instruction from said at least one selected recipe to said user, wherein said communication means further comprise text-to-speech and voice recognition means configured to fulfill and recognize spoken commands given by said user to said apparatus (Abstract, C3 L50-67, C5 L35-50).
16. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included a communication means, said communication means

communicating cooking instruction from said at least one selected recipe to said user, wherein said communication means further comprise text-to-speech and voice recognition means configured to fulfill and recognize spoken commands given by said user to said apparatus, as disclosed by Kolawa, in the system disclosed by DelGiorno, in the system disclosed by Neuhaus, and further in the system disclosed by Carmean, for the advantage of providing an apparatus for facilitating the food preparation process with the ability to simplify the process by allowing the cook to give/receive necessary preparation instructions by audio command to/from the computer recipe apparatus; thus, allowing the cook to keep their hands free for the actual food preparation.

17. As per Claims 2, 15, and 26, Carmean, Neuhaus, DelGiorno, and Kolawa disclose editing means, said editing means allowing said user to edit any one of said plurality of cooking recipes stored on said memory means (Carmean: Abstract) (DelGiorno: Abstract, C4 L1-65).
18. As per Claim 3, Carmean, Neuhaus, DelGiorno, and Kolawa disclose wherein said recipe loading means further comprise formatting means, said formatting means changing the format of said added recipes to conform to the format of said plurality of recipes stored on said memory means (Neuhaus: Abstract, C7-8).
19. As per Claims 4, 16, and 28, Carmean, Neuhaus, DelGiorno, and Kolawa disclose displaying means, said displaying means displaying said at least one selection recipe (Carmean: Abstract, C3 L45-67, C4 L35-50, C2 L20-40).
20. As per Claims 5, 17, and 29, Carmean, Neuhaus, DelGiorno, and Kolawa disclose printing means, said printing means printing a number of recipes from said plurality of recipes stored on said memory means (DelGiorno: Abstract).

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21. As per Claims 6, 18, and 30, Carmean, Neuhaus, DelGiorno, and Kolawa disclose glossary means, said glossary means providing explanations for terms contained within said cooking recipes (Neuhaus: Abstract, C3 L1-35, C7 L45-55).
22. As per Claims 7, 19, and 31, Carmean, Neuhaus, DelGiorno, and Kolawa disclose timing means, said timing means allowing said user to set time required to prepare said at least one selected recipe (Carmean: Abstract, C4 L50-65, C6-8).
23. As per Claims 8 and 27, Carmean, Neuhaus, DelGiorno, and Kolawa disclose wherein said selection means are further configured to create a list of ingredients from said at least one selected recipe (DelGiorno: Abstract, C2 L25-35).
24. As per Claims 9, 20, and 32, Carmean, Neuhaus, DelGiorno, and Kolawa disclose sending means, said sending means sending a number of recipes from said plurality of recipes stored on said memory means to recipients designated by said user (DelGiorno: Abstract, C2 L12-36, C72 L9-28).
25. As per Claims 10, 21, and 33, Carmean, Neuhaus, DelGiorno, and Kolawa disclose wherein said apparatus is an electronic handheld device (Carmean: Abstract).
26. As per Claims 11, 22, and 34 Carmean, Neuhaus, DelGiorno, and Kolawa disclose wherein said apparatus is a household appliance (Carmean: Abstract, C1).
27. As per Claims 12, 23, and 35, Carmean, Neuhaus, DelGiorno, and Kolawa disclose wherein said is a computer application (Carmean: Abstract).
28. As per Claims 13, 24, and 36, Carmean, Neuhaus, DelGiorno, and Kolawa disclose wherein said apparatus is an Internet website (Carmean: Abstract) (Kolawa: Abstract, C3 L50-67).

*Conclusion*

29. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

30. The following patents are cited to further show the state of the art with respect to voice recognition in general:

U.S. Pat. No. 5,861,881 to Freeman et al.

The following foreign patent is cited to show the best foreign prior art found by the examiner:

Japanese Pat. No. JP 09218875 A to Mizutani et al.

Mizutani discloses an instruction input device which outputs instructed display information, a cooking information storage device which stores and outputs the information of cooking and a user intention calculation device which estimates the intention of a user from the output of the instruction input device and the cooking data lately provided to the user

31. The following non-patent literature is cited to show the best non-patent literature prior art found by the examiner:

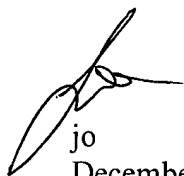
Youssef, Jenni, "The Virtual Kitchen Helper," HFN The Weekly Newspaper for the Home Furnishing Network, p43, April 1, 1996.

Youssef discloses a new kitchen appliance by Brother International Corp., which maintains a database of recipes, can print out a shopping list, or can find a recipe depending on the ingredients the cook has on hand.



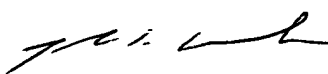
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32. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan Ouellette whose telephone number is (703) 605-0662. The examiner can normally be reached on Monday through Thursday, 8am - 5:00pm.
33. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (703) 308-2702. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-3597 for After Final communications.
34. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-5484.



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December 30, 2002



**JOHN G. WEISS**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 3600**